

HOUSE BILL 842

N1

11r1343
CF SB 516

By: **Delegates Healey, Gilchrist, Glenn, and Lafferty**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Foreclosed Residential Property – Tenants – Collection of Rent Payments**
3 **– Prior Notice**

4 FOR the purpose of prohibiting a foreclosure sale purchaser from exercising any right
5 to collect rent payments from a bona fide tenant in possession of a residential
6 property unless the purchaser conducts a certain reasonable inquiry concerning
7 the occupancy of the residential property and serves on each bona fide tenant a
8 certain notice concerning rent payments; providing that a foreclosure sale
9 purchaser waives any claim to rent payments from a bona fide tenant in
10 possession of a residential property before satisfying certain notice
11 requirements; defining certain terms; providing for the application of this Act;
12 and generally relating to the collection of rent payments from tenants in
13 possession of foreclosed residential property.

14 BY repealing and reenacting, without amendments,
15 Article – Real Property
16 Section 7–105.1(a)(9) and 7–105.6(b)(1)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2010 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 7–105.10
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2010 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-105.1.

2 (a) (9) "Residential property" means real property improved by four or
3 fewer single family dwelling units that are designed principally and are intended for
4 human habitation.

5 7-105.6.

6 (b) (1) For purposes of this subsection, a lease or tenancy shall be
7 considered "bona fide" only if:

8 (i) The mortgagor or grantor or the child, spouse, or parent of
9 the mortgagor or grantor under the contract is not the tenant;

10 (ii) The lease or tenancy was the result of an arm's length
11 transaction; and

12 (iii) The lease or tenancy requires the receipt of rent that is not
13 substantially less than fair market rent for the property or the unit's rent is reduced
14 or subsidized due to a federal, State, or local subsidy.

15 **7-105.10.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
17 MEANINGS INDICATED.

18 (2) "BONA FIDE TENANT" MEANS A TENANT UNDER A LEASE OR
19 TENANCY DESCRIBED IN § 7-105.6(B)(1) OF THIS SUBTITLE.

20 (3) "FORECLOSURE SALE PURCHASER" MEANS ANY PURCHASER
21 AT A FORECLOSURE SALE OF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL
22 PROPERTY.

23 (4) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN §
24 7-105.1(A)(9) OF THIS SUBTITLE.

25 (B) A FORECLOSURE SALE PURCHASER MAY NOT EXERCISE ANY RIGHT
26 TO COLLECT RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A
27 RESIDENTIAL PROPERTY UNLESS THE PURCHASER:

28 (1) CONDUCTS A REASONABLE INQUIRY AS REQUIRED UNDER
29 RULE 14-102 OF THE MARYLAND RULES INTO:

30 (I) THE OCCUPANCY STATUS OF THE RESIDENTIAL
31 PROPERTY; AND

1 **(II) WHETHER ANY INDIVIDUAL IN POSSESSION OF THE**
2 **RESIDENTIAL PROPERTY IS A BONA FIDE TENANT; AND**

3 **(2) SERVES ON EACH BONA FIDE TENANT, BY FIRST CLASS MAIL**
4 **WITH A CERTIFICATE OF MAILING AND POSTING IN A CONSPICUOUS PLACE ON**
5 **THE RESIDENTIAL PROPERTY, A NOTICE THAT:**

6 **(I) CONTAINS THE NAME, ADDRESS, AND PHONE NUMBER**
7 **OF THE AGENT OF THE PURCHASER WHO IS RESPONSIBLE FOR MANAGING AND**
8 **MAINTAINING THE RESIDENTIAL PROPERTY; AND**

9 **(II) STATES THAT RENT PAYMENTS MUST BE DIRECTED TO**
10 **THE AGENT IDENTIFIED IN ITEM (I) OF THIS ITEM.**

11 **(C) A FORECLOSURE SALE PURCHASER WAIVES ANY CLAIM TO RENT**
12 **PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL**
13 **PROPERTY FOR ANY PERIOD OF TIME BEFORE THE PURCHASER SATISFIES THE**
14 **REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed to apply only prospectively and may not be applied or interpreted to have
17 any effect on or application to any action to foreclose a mortgage or deed of trust on
18 residential property docketed on or before June 30, 2011.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2011.